

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

MALINKA MOYE,

No. C 08-02124 SBA

Plaintiff,

**ORDER**

v.

[Docket No. 5]

LYDIA BACA,

Defendant.

---

On April 24, 2008, plaintiff *pro per* sued defendant. *See* Docket No. 1. Plaintiff's complaint simply stated he was suing defendant under the Racketeer Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. § 1961 *et seq*, the Uniform Fraudulent Transfers Act of 1996, the Uniform Fraudulent Conveyances Act, and perjury. Plaintiff provided no other allegations to support his listed claims. *See id.* This same day, plaintiff filed an Application to Proceed *in Forma Pauperis* (the "Application"). It was difficult to read and illogical. *See* Docket No. 3. For example, plaintiff alleged he had a monthly income of \$750,000, no expenses, yet received Supplemental Security Income from the Social Security Administration. *See id.*

On April 30, 2008, the Court denied plaintiff's Application on the grounds his complaint failed to state a claim upon which relief could be granted, and because his Application failed to sufficiently demonstrate he could pay or provide security for court costs and still provide himself and any dependents with the necessities of life. *See* Docket No. 5. Nonetheless, the Court gave plaintiff 30 days from April 30, 2008, to file a First Amended Complaint and an amended Application. *See id.* The Court warned plaintiff, however, if he failed to perform these tasks by this deadline, the Court would dismiss this matter without prejudice. *See id.*


On May 1, 2008, Judge Phyllis J. Hamilton found plaintiff had filed in 2008, nine suits in the Northern District, some against the same defendants, and had failed to state a claim upon which relief could be granted in any of them. *See* Docket No. 6. She also found plaintiff had been declared vexatious by the San Francisco Superior Court, where he had filed approximately 80 suits

1 since 2002. *See id.* On May 6 and May 9, 2008, three pieces of court mail addressed to plaintiff  
2 were returned to the Clerk's office as undeliverable.<sup>1</sup> *See* Docket Nos. 7-9. On one envelope,  
3 someone had written not to send any more court mail to the address in question, and that they had a  
4 restraining order against plaintiff using this address, and would have him arrested if he appeared at  
5 it. *See* Docket No. 7.

6 Because plaintiff failed to file a First Amended Complaint and an amended Application as  
7 ordered, within 30 days of April 30, 2008, and considering other subsequent developments in this  
8 matter, the Court DISMISSES this matter without prejudice. All matters calendared in this action  
9 are VACATED. The Clerk shall CLOSE the file and TERMINATE any pending matters.

10  
11 IT IS SO ORDERED.

12 July 1, 2008

13   
14 Sandra Brown Armstrong  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

28 <sup>1</sup> A party, *pro per* or otherwise, has a duty to inform the Clerk of their current address, and may suffer a dismissal for failing to do so. *See* N.D. Cal. L.R. 3-11.

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4  
5

6 MALINKA MOYE,

Case Number: CV08-02124 SBA

7 Plaintiff,

**CERTIFICATE OF SERVICE**

8 v.

9 LYDIA BACA et al,

10 Defendant.  
11 \_\_\_\_\_/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,  
Northern District of California.

13 That on July 2, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies)  
14 in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in  
15 the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's  
office.  
16

17 Malinka Moye  
18 40. 42. Parsons Street  
San Francisco, CA 94118

19 Dated: July 2, 2008

20 Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk  
21  
22  
23  
24  
25  
26  
27  
28